

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

MATTHEW R. DESCAMPS,
Defendant.

No. CR-05-104-FVS

ORDER DENYING CHANGE OF VENUE

THIS MATTER comes before the Court based upon the defendant's multiple motions for change of venue. He is represented by Jeffrey S. Niesen; the government by Stephanie Whitaker.

RULING

The defendant urges the Court to transfer venue to the Western District of Washington. He makes this request in conjunction with his request that the Court recuse itself. Thus, the Court assumes that, by requesting a change of venue, he is asking the Court to reassign his case to one of the Western District Judges. See Fed.R.Crim.P. 21(b) ("Upon the defendant's motion, the court may transfer the proceeding . . . to another district for the convenience of the parties and witnesses and in the interest of justice."). See also *Platt v. Minnesota Mining & Mfg. Co.*, 376 U.S. 240, 243-44, 84 S.Ct. 769, 771, 11 L.Ed.2d 674 (1964) (criminal antitrust case) (listing relevant factors). If this is the essence of his motion, it is denied.

1 for the same reasons that his request for recusal is being denied.
2 However, it is possible he is alleging that he will suffer prejudice
3 if he is tried in the Eastern District. See Fed.R.Crim.P. 21(a) (Upon
4 the defendant's motion, the court must transfer the proceeding against
5 that defendant to another district if the court is satisfied that so
6 great a prejudice against the defendant exists in the transferring
7 district that the defendant cannot obtain a fair and impartial trial
8 there."). To date, nothing has occurred that would justify a
9 presumption of prejudice and the defendant has not demonstrated the
10 existence of actual prejudice. See *United States v. Sherwood*, 98 F.3d
11 402, 410 (9th Cir.1996) (prejudice is rarely presumed; as a general
12 rule, the defendant must demonstrate actual prejudice). Consequently,
13 his request for change of venue is denied.

14 **IT IS HEREBY ORDERED:**

15 The defendant's multiple motions for change of venue (**Ct. Recs.**
16 **180, 214, 253, and 258**) are denied.

17 **IT IS SO ORDERED.** The District Court Executive is hereby
18 directed to enter this order and furnish copies to counsel.

19 **DATED** this 17th day of August, 2007.

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21 s/ Fred Van Sickle
Fred Van Sickle
22 United States District Judge
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